

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Petition by the Minnesota Public Utilities Commission)	
for Agreement With Changes in Definition of Service)	
Areas for Exchanges Served by CenturyTel, Citizens)	
Telecommunications Company, Frontier)	
Communications of Minnesota, Inc., Mid-State)	
Telephone Company, Scott-Rice Telephone,)	
United Tel Co of Minnesota (UTC of Minnesota),)	
Federated Telephone Company, Melrose Telephone)	
Company, Winsted Telephone Company (TDS)	
Telecom), Eckles Telephone Company (Blue Earth)	
Valley Telephone Company), Lakedale Telephone)	
Company, and Farmers Mutual Telephone Company.)	

COMMENTS OF TDS TELECOMMUNICATIONS CORP.

TDS Telecommunications Corp. (“TDS Telecom”), parent company of rural local exchange carriers (“RLECs”) Mid-State Telephone Company d/b/a KMP (“Mid-State”) and Winsted Telephone Company (“Winsted”) (collectively, the “TDS RLECs”), submits these comments in response to the Supplement to the Petition of the Minnesota Public Utilities Commission for FCC Agreement to Redefine the Service Areas of Twelve Minnesota Rural Telephone Companies (“Petition”).¹ These comments respond to the Commission’s invitation to

¹ See *Federal-State Joint Board on Universal Service, Petition of the Minnesota Public Utilities Commission for FCC Agreement to Redefine the Service Areas of Twelve Minnesota Rural Telephone Companies*, CC Docket No. 96-45, Supplement (May 14, 2004) (“Supplement”).

identify new information or arguments related to the Commission's *Virginia Cellular*² and *Highland Cellular*³ decisions that are relevant to the pending Petition and Supplement.⁴ Specifically, we urge the Commission to deny the Petition on the ground that, under the *Highland Cellular* decision, redefining the rural service areas of the TDS RLECs as proposed would be inconsistent with the public interest.

The Petition proposes to redefine certain rural service areas, including those of Mid-State and Winsted. In some of these service areas, the Minnesota Public Utilities Commission ("MPUC") seeks to define the service area below the wire center level. For example, the MPUC seeks to redefine the Winsted wire center to allow an ETC to serve only a portion of the wire center. Similarly, the MPUC proposes to redefine four of the Mid-State wire centers at the sub-wire-center level. This type of redefinition is expressly foreclosed by the Commission's decision in *Highland Cellular*.

In *Highland Cellular*, the Commission addressed a request by the petitioner to serve only a portion of a rural carrier's wire center. Although the Commission acknowledged that the Wireline Competition Bureau had previously designated an ETC for portions of a rural carrier's wire center, the Commission concluded categorically that "making designations for a

² Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (rel. Jan. 22, 2004) ("*Virginia Cellular*").

³ Memorandum Opinion and Order, *Federal-State Joint Board on Universal Service Highland Cellular, Inc Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 04-37 (rel. April 12, 2004) ("*Highland Cellular*").

⁴ See Public Notice, *Parties are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, CC Docket No. 96-45, DA 04-999 (rel. Apr. 12, 2004) ("Public Notice").

portion of a rural telephone company's wire center would be *inconsistent with the public interest*.”⁵ The Commission elaborated:

In particular, we conclude, that prior to designating an additional ETC in a rural company's service area, the competitor must commit to provide supported services to customers throughout a geographic area. A rural telephone company's wire center is an appropriate minimum geographic area for ETC designation because rural carrier wire centers typically correspond with county and/or town lines. We believe that requiring a competitive ETC to serve entire communities will make it less likely that the competitor will relinquish its ETC designation at a later date.⁶

Despite the Commission's categorical conclusion, the MPUC asserts in the Supplement that it “does not understand the *Highland Cellular* decision to institute an absolute ban on redefinition below the wire center level.”⁷ Seizing upon the Commission's stated concern that “consumers in rural areas . . . are more vulnerable to carriers relinquishing ETC designation,”⁸ the MPUC argues that the overall conclusion that sub-wire-center redefinition is contrary to the public interest should not apply to the proposed Minnesota redefinition because “[i]n this case, there is no evidence that any party will be relinquishing ETC status as a result of the redefinition.”⁹

⁵ *Highland Cellular* ¶ 33 (emphasis added).

⁶ *Id.*

⁷ *Id.*

⁸ Supplement at 2.

⁹ *Id.*

The MPUC's argument both misapprehends the Commission's rationale and ignores the categorical nature of the Commission's conclusion "that making designations for a portion of a rural telephone company's wire center would be inconsistent with the public interest."¹⁰ The Commission did not decline to permit Highland Cellular to serve a partial wire center because it found that some existing ETC could be expected to "relinquish[] ETC status as a result of the redefinition."¹¹ Instead, the Commission found that where a competitive ETC ("CETC") is unwilling to commit to serve at least a full wire center within a rural community, there is an increased likelihood that the CETC will be willing and able to relinquish its ETC status in the partial wire center in the future (because the CETC will not have invested much in the market). For example, a CETC might be willing to relinquish its ETC status if it is unable to win as much business in the rural market as it had expected. This could leave the CETC's subscribers scrambling for replacement service where few alternatives are available. To protect rural consumers against this vulnerability, the Commission concluded that *all* carriers seeking ETC designation in a rural service area must demonstrate sufficient commitment to the local community that they are willing to serve a full wire center. It is irrelevant whether the immediate relinquishment of ETC status of any carrier is anticipated at the time the service area is redefined.

Because the Petition proposes to redefine Minnesota wire centers, including those of the TDS RLECs, in a manner that the Commission has found would be inconsistent with the

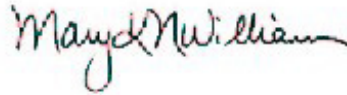
¹⁰*Highland Cellular* ¶ 33.

¹¹ Supplement at 2.

public interest, the Commission should deny the Petition and refer it to the MPUC for reconsideration of the underlying decision to designate CETCs in partial wire centers.¹²

Respectfully submitted,

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May 28, 2004

¹² In reconsidering its ETC designation and redefinition decision, the MPUC will have an opportunity to correct an apparent oversight in its redefinition proposal. In the Petition, the MPUC has sought redefinition of only seven of the eleven wire centers that make up Mid-State's study area. *See Federal-State Joint Board on Universal Service, Petition of the Minnesota Public Utilities Commission for FCC Agreement to Redefine the Service Areas of Twelve Minnesota Rural Telephone Companies*, CC Docket No. 96-45, Petition, Ex. D (Aug. 7, 2003). The wire centers included in the MPUC Petition are: Irving (partial), Pennock, New London, Spicer, Sunburg (partial), Murdock (partial), and Kerkhoven (partial). Not included in the Petition are Mid-State's Danube, Brooten, Sedan, and Terrace wire centers. Any revised decision should clarify the extent to which those wire centers would be redefined.